

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. CBA-864-B

PETITION OF POTOMAC SWIM AND RECREATION ASSOCIATION

OPINION OF THE BOARD
(Opinion Adopted June 17, 2009)
(Effective Date of Opinion: July 2, 2009)

Case No. CBA-864-B is a modification application to allow additional structures and operations on the site of a community swimming pool.

The subject property is Parcel N317, Williamsburg Garden Subdivision, located at 10531 Oaklyn Drive, Potomac, Maryland in the R-200 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on March 6, 2009, closed the record in the case on April 30, 2009, and on June 1, 2009 issued a Report and Recommendation to grant the application in part and to deny it in part.

Decision of the Board: Special Exception Modification
 Granted in part and **Denied** in part.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on June 17, 2009. After careful consideration and review of the record, the Board finds the Report and Recommendation thorough and thoughtful. The Board finds that proposed Condition 8 in the Report and Recommendation is beyond the scope of the proposed modification, and therefore deletes that condition. The Board further finds that a Revised Site Plan is needed consistent with the modifications that are approved, and adds a condition to require one. Therefore, the Board adopts the Hearing Examiner's Report and Recommendation, with the revisions discussed, and denies the modification in part and grants it in part, subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board.

2. All terms and conditions of the approved special exception remain in full force and effect, except as modified in the Board's order granting portions of this modification request.
3. Petitioner must comply with the conditions of the final stormwater management plan approved by the Montgomery County Department of Permitting Services.
4. Petitioner must comply with the terms of the Final Forest Conservation Plan approved June 2, 2008. Exhibits 7(b)-(d).
5. The maximum allowable number of employees and contract staff will remain unchanged.
6. Total membership in the Potomac Swim Club continues to be limited to 400 member families, including both permanent and temporary membership. Use of the Club is restricted to members and their guests who pay a guest fee.
7. Club hours of operation are between 6:30 a.m. and 9:00 p.m. All external lights must be on a timer set to turn off by 9:00 p.m., and all on-site club activity must cease at that point.
8. Petitioner must take steps to ensure that the site is maintained free of loose trash and other unsightly conditions.
9. Petitioner must not allow the new tennis office building or other on-site facilities to be used for the sale of merchandise.
10. Petitioner must establish a community liaison council (CLC) composed of representatives of the special exception holder; civic associations representing the general neighborhood surrounding the special exception use; neighbors who choose to attend; and the People's Counsel, who acts as an ex-officio member to facilitate the meetings. There must be four meetings of the community liaison council scheduled each year; with minutes taken of those meetings; and with an annual report containing those minutes submitted by Petitioner to the Board of Appeals.
11. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.
12. Within 90 days of the issuance of this Opinion, the Petitioner must submit a Revised Site Plan depicting the site consistent with the approved modifications the Petitioner intends to implement.

On a motion by David K. Perdue, Vice-Chair, seconded by Walter S. Booth, with Stanley B. Boyd, Carolyn J. Shawaker and Catherine G. Titus, Chair in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 2nd day of July, 2009.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.